

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

UNITED STATES OF AMERICA	:	CRIMINAL NO. 04-
v.	:	FILED: _____
GEORGE ATIYEH	:	VIOLATIONS: 18 U.S.C. § 153 (Embezzlement from Bankruptcy Estate)
	:	18 U.S.C. § 152(1) (Concealment of Bankruptcy Estate
	:	Assets)

INDICTMENT

COUNT ONE

(Embezzlement from Bankruptcy Estate)

THE GRAND JURY CHARGES THAT:

INTRODUCTION

At all times material to this Indictment:

- 1. Defendant GEORGE ATIYEH was the controlling owner of Quality Realty Construction, Inc. (“QRCI”), a corporation that owned a building located at 608 Hamilton Avenue, Allentown PA.**
- 2. Defendant GEORGE ATIYEH was the president of and 50% shareholder in QRCI.**
- 3. In or about 1996, QRCI sold the building to Regional Realty Holding, Inc. (“RRHI”) for \$425,000. As part of the purchase price, RRHI gave QRCI a purchase money mortgage in the amount of \$375,000, to be paid in 60 monthly payments of \$7,967.64 each, beginning in October of 1996 and ending in September of 2001.**

4. On or about February 7, 1997, QRCI filed a voluntary petition signed by defendant GEORGE ATIYEH under Chapter 11 of the United States Bankruptcy Code, in the United States Bankruptcy Court for the Eastern District of Pennsylvania (“Bankruptcy Court”), which was docketed at No. 92-20529-TMT, and converted to a liquidation proceeding under Chapter 7 of the United States Bankruptcy Code on August 18, 2000.

5. Pursuant to Chapter 11 of the Bankruptcy Code, a debtor who is authorized to remain in possession of its assets during the bankruptcy is known as a “debtor in possession” (“DIP”). Under the Bankruptcy Code, a DIP is required to preserve the property and assets in the debtor’s estate, thereby acting as a fiduciary to all creditors of the debtor. A DIP is required to establish a “Debtor in Possession Account” (“DIP Account”) through which the debtor is required to place all monies belonging to the estate of the debtor and make all disbursements during the bankruptcy proceeding.

6. By filing a voluntary petition for relief under the Bankruptcy Code, QRCI was required to file with the Bankruptcy Court accurate schedules of assets and liabilities, and monthly operating reports listing all receipts and disbursements.

7. When a bankruptcy is filed under Chapter 11, all property belonging to the debtor automatically becomes property of the bankruptcy estate.

8. All mortgage payments received from RRHI to QRCI after the filing of the bankruptcy petition on February 7, 1997, constitute property of the bankruptcy estate.

9. Defendant GEORGE ATIYEH had access to the property belonging to the estate of the debtor QRCI, namely, the funds in the DIP Accounts.

10. By Order entered February 25, 1997, the Bankruptcy Court required the

debtor QRCI to deposit all mortgage payments received from RRHI in a DIP Account and prohibited the debtor QRCI from disbursing any of the funds received from RRHI unless authorized by the Bankruptcy Court.

11. During the course of the Chapter 11 case, from time to time the Bankruptcy Court authorized QRCI to pay certain attorney fees from the DIP Account. No other disbursements were authorized during the course of the Chapter 11 case.

12. During the course of the Chapter 11 case, QRCI maintained the following DIP Accounts, among others, at First Union National Bank over which defendant GEORGE ATIYEH had signature authority: Account Nos. 2030000409394; 3030002728315; 2030000369722; and 8883815663.

13. During the period from March of 1997 through August of 2000, Defendant GEORGE ATIYEH wrote checks, made withdrawals and made ATM withdrawals from Account Nos. 2030000409394; 3030002728315; 2030000369722; and 8883815663 totaling approximately \$280,000 that were not authorized by the Bankruptcy Court.

14. From in or about March of 1997, through in or about August of 2000, in the Eastern District of Pennsylvania, defendant

GEORGE ATIYEH,

in connection with the case of In re Quality Realty Construction, Inc., Case No. No. 92-20529-TMT, filed in the United States Bankruptcy Court for the Eastern District of Pennsylvania, did knowingly and fraudulently appropriate to his own use, and did embezzle and spend property belonging to the estate of the debtor QRCI, that is, funds in

**the approximate amount of \$280,000 in excess of disbursements authorized by the
Bankruptcy Court.**

All in violation of Title 18, United States Code, Section 153.

COUNT TWO

(Concealment of Bankruptcy Assets)

THE GRAND JURY FURTHER CHARGES THAT:

At all times material to this Indictment:

1. Paragraphs 1 through 13 of Count One are realleged here.

2. During the course of the Chapter 11 bankruptcy case, as part of the effort to conceal funds that constituted property of the estate of the debtor, from time to time defendant GEORGE ATIYEH would submit and cause to be submitted false monthly operating reports to the Bankruptcy Court.

3. During the course of the Chapter 11 bankruptcy case, as part of the effort to conceal funds that constituted property of the estate of the debtor, from time to time defendant GEORGE ATIYEH would deposit into the DIP Accounts checks with insufficient funds drawn on checking accounts he controlled, thereby creating falsely inflated apparent balances in the DIP Accounts.

4. From in or about March of 1997, through in or about August of 2000, in the Eastern District of Pennsylvania, defendant

GEORGE ATIYEH,

in connection with the case of In re Quality Realty Construction, Inc., Case No. No. 92-20529-TMT, filed in the United States Bankruptcy Court for the Eastern District of Pennsylvania, did knowingly and fraudulently conceal and cause to be concealed from creditors and the United States Trustee, property belonging to the estate of the debtor, that is, funds in the approximate amount of \$280,000 in excess of disbursements authorized by

the Bankruptcy Court.

All in violation of Title 18, United States Code, Section 152(1).

A TRUE BILL:

FOREPERSON

PATRICK L. MEEHAN
United States Attorney
Eastern District of Pennsylvania